United Nations S/2004/919

Security Council

Distr.: General
10 November 2004

Original: English

Letter dated 9 November 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my predecessor's letter of 3 November 2003 (S/2003/1061). The Counter-Terrorism Committee has received the attached fourth report from Poland submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Andrey I. **Denisov**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-62731 (E) 061204

Annex

Letter dated 14 May 2004 from the Permanent Representative of Poland to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

In response to your letter of 22 October 2003, and on behalf of my Government, I have the honour to submit herewith the fourth report on the measures taken by the Republic of Poland to implement the provisions of Security Council resolution 1373 (2001) (see enclosure).

Please note that the paragraphs used in the present report refer to the paragraphs in which specific questions or requests are contained in your letter of 22 October 2003.

My Government stands ready to provide the Committee with further information, as necessary, or if requested to do so by the Committee, and to assist it in the assessment of the implementation of the resolution.

At the same time let me apologize for the delay in providing the Committee with the present report. The intention of my Government was to include the recent developments to reflect properly the progress of implementation of resolution 1373 (2001) by my country.

(*Signed*) Janusz **Stańczyk**
Ambassador
Permanent Representative

Enclosure

FOURTH REPORT ON THE IMPLEMENTATION BY POLAND OF SECURITY COUNCIL RESOLUTION 1373 (2001) SUBMITTED TO THE COUNTER-TERRORISM COMMITTEE

1. Implementation measures

Criminalisation of terrorist acts and their financing

1.1 Ongoing legislation

The amendments to the Penal Code aiming *inter alia* at the introduction of definition of "terrorist acts" and relevant penalties are still under examination. There are two draft amendments submitted for consideration of the Parliament – one at the initiative of a group of parliamentarians and the other at the initiative of the President of the Republic of Poland.

Both were referred to the Extraordinary Committee of the Lower House of the Parliament for Modifications in the Codes on 16 January 2002. The Government in its statement of 25 March 2002 supported the President's draft. The work on the amendments works continue to reconcile the two proposals in order to draw as much support as possible. It should be stressed however that there is unanimity among the legislators with regard to codification of penalties for terrorist acts in one code – namely the Penal Code.

Nonetheless, despite slow legislative process in this matter, the terrorist acts in Poland are criminalized under the provisions of the Penal Code in force, as well as some sector laws. All of them were discussed in the previous reports of Poland to the CTC.

1.2 Ratification of international conventions

Since the submission of the third supplementary report to the CTC, Poland became party to:

- International Convention for the Suppression of Financing of Terrorism (instrument of ratification was deposited with the Secretary-General of the United Nations on 26 September 2003 and the Convention entered into force for Poland on 26 December 2003.
- International Convention for the Suppression of Terrorist Bombings (instrument of ratification, together with the objection to the reservation of Pakistan, was deposited with the Secretary-General of the United Nations on 3 February 2004 and the Convention entered into force for Poland on 4 March 2004.

The process of ratification of the two remaining anti-terrorist conventions is at the final stage.

- The question of ratification of the Protocol on the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation was examined in the Committee for Foreign Affairs of the Lower House of Parliament on 21 January 2004. Since this Protocol is – pursuant to the decision of the Government – subject to ratification, where

consent of Parliament in form of the law is not needed, the House had 30 days as from the said meeting to raise possible objections to the applied procedure. Since no such objections were raised, the instrument of ratification was sent to the President for signature. It is expected that appropriate instrument will be deposited with the UN Secretary-General in June.

- Draft law authorising President to ratify the Convention on the Marking of Plastic Explosives for the Purpose of Detection will be submitted to the Parliament in June.

Under Article 91 of the Constitution an international treaty ratified and published in the Official Journal of Laws of the Republic of Poland constitutes part of national legal system and is implemented directly, unless its implementation is depending on enacting law. Moreover, in light of the said Article, international treaty ratified with prior consent of the Parliament expressed in law has priority over any laws, if it is impossible to reconcile that treaty with the law.

At the time of the preparation of decisions to initiate the process of ratification of the said conventions, the Government came to a conclusion that the national legal system is adjusted to the obligations resulting from anti-terrorist conventions in question, so that no new legislation needs to be approved.

Effectiveness in the protection of the financial system

1.3

Two international regional organizations were involved in assisting Poland with the view to improvement the protection of financial system against abuse by criminals:

- **Financial Action Task Force (FATF)** – which effects the evaluation of the preparation of ability to carry out international cooperation in counteracting money loundering. Poland was subject to evaluation in May 2001 and in June 2002.
- **Council of Europe – Special Committee of Experts to Evaluate Measures Undertaken in order to Prevent Money Laundering (PC-R-EV) in Strasbourg** – the visit of delegation of the Committee took place on 20-25 April 2002. The report evaluating the preparation of Polish financial system to carry out the obligations was submitted in June 2003.

Poland is also effecting self-evaluation for the needs of the Council of Europe.
The texts of the reports concerning all the countries under evaluation is contained on the site www.worldbank.org/wbi/goodgovernance/.

The preparation of Poland to cope with problems of abuse of financial system by criminals was subject ot accession negotiations and preparation by Poland to the EU membership. The results of the evaluation are contained in the European Commission documentation.

1.4

The recommendations contained in document PC-R-EV (99) 28 Res. refer to broad range of measures to improve *inter alia* the financial system. Since its adoption Poland made significant progress in this regard. As a result of the concerns expressed in the recommendations by the Council of Europe the law on counteracting the introduction to the financial system of financial assets originating from illegal or undisclosed sources and on combating terrorism was adopted and amended

to further strengthen the capacity to deal with money laundering. Additionally, competent authorities are organising a series of training directed both to the staff of the Ministry of Finance and obligated institutions to enhance co-operation in this regard.

1.5

The concerns expressed in the letter of CTC have been already addressed by Poland.

The law on counteracting the introduction to the financial system of financial assets originating from illegal or undisclosed sources and on combating terrorism was further amended by the law of 5 March 2004.

It introduced to the definition of "obligated institutions" referred to in Article 2 subparagraph (1): lawyers carrying out their profession, legal counsels, carrying out their profession beyond their normal employment, foreign lawyers providing legal assistance beyond their employment, expert auditors, tax advisors, entities carrying out exchange operations, undertakings carrying out auction houses, leasing or factoring activity, activity with regard to trade with metals or precious or semi-precious stones, commission sale, granting of loans or intermediary with respect to sale of estate properties, as well as foundations.

The said amendments entered into force with the accession of Poland to the European Union, i.e. on 1 May 2004.

1.6

Indeed, the law mentioned above does not contain the definition of "suspicious transaction". Therefore the criteria to be used to determine particular transaction as suspicious are elaborated and applied by obligated institutions themselves. They follow mainly from their ongoing practice of operation. The elements that could lead to a conclusion that particular transaction is suspicious include:

- Information on entities, which effect particular transaction, and especially the entities with regard to which there is a suspicion that they are involved in criminal activity, and especially terrorist acts, and where the financial resources being object of transaction could proceed from illegal or criminal activity or could be used to effect such activity;
- Circumstances in which particular transaction is carried out that raise suspicions as to the perpetration of crime. One of such transactions was described in one of the previous reports to the CTC.

This issue is interlinked with the provisions of the Polish Penal Code relating to the phenomenon of money laundering, especially Article 299 thereof.

Competent authorities are actually contemplating whether the introduction to the law of the definition of "suspicious transaction" is appropriate. CTC will be informed on the progress.

1.7

Poland is making every effort to prepare adequately governmental services responsible for national security and security of citizens to counteract actual threats.

Investigation, prevention and detection of crimes with terrorist nature are the highest priority task of Homeland Security Agency (ABW). These tasks are carried out by officers of specialised organisational unit of the Agency – Department for Counteracting to Corruption, Terrorism and Organised Crime. The said Department undertook a series of organisational and operational actions aiming at the minimisation of terrorist threats. They were intensifed in the context of the involvement of Poland in stabilisation action in Iraq.

In January 2003 the Coordination Team for Operational and Investigation Actions with regard to Combating Political Terrorism was established. Officers of ABW, Intelligence Agency (AW), Army Intelligence (WSI), Police, Border Guard (immigration), Customs Service and General Inspector for Financial Information exchange periodically information on terrorist threats, as well as on persons suspected of carrying out terrorist activity. The coordinating body within the said actions is ABW. Within the Team the following measures have been taken: principles of cooperation of services and institutions were elaborated, division of competencies was effected and procedures for coordination of actions among special services, Police and immigration, on the one hand, as well as specialised agencies of the Ministry of Finance, on the other hand, were established. In the event of symptoms of terrorit threat the Team is capable of initiating immediate coordination of actions aiming at their neutralisation.

Within counteracting to international terrorism following actions have also been taken to prepare the structures of government for the tasks connected with combating such threats:

— ABW transmitted to the Ministry of the Interior and Administration the information and data concerning public objects particularly exposed to terrorist attacks (e.g. state institutions, business and congress centres, etc.);
— ABW trained plenipotentiaries for the protection of restricted information in central institutions with regard to prevention of terrorist threats to official information systems;
— The regime of border control of persons and cargoes was strengthened
— A list of approx. 1000 persons was prepared, who were entered in the register containing names of persons suspected of planning or carrying out of terrorist activity.

The cooperation with foreign services was intensified. Machanisms of joint actions and more rapid flow of information on terrorist threats were elaborated.

There were measures taken as to the safety of teleinformation systems, in order to counteract to terrorist threats in internet. Standards were elaborated governing the establishment of safe electronic mail for public administration.

1.8

Poland has not encountered any difficulties asa regards law enforcement and/or the gathering of intelligence in relation to the areas mentioned in paragraph 1.7 of the letter.

1.9

Yes, there are in Poland special counter-terrorist measures in judicial proceedings, including those mentioned in the CTC letter.

1.10

Poland uses all modern investigative techniques to ensure that terrorits are brought to justice, including those mentioned in the CTC letter.

1.11

In accordance with the law on counteracting the introduction to the financial system of financial assets originating from illegal or undisclosed sources and on combating terrorism, the authority responsible for investigating and combating the financing of terrorism is General Inspector for Financial Information. The principles of co-ordination of activities and co-operation of among different government agencies is regulated by the above mentioned law, which text in English is in possession of the Committee, as well as in paragraph 1.7 of this questionnaire.

1.12

There is in Poland witness-protection program functioning, which ensures those who testify against public enemies the full protection of the law, including new identities, relocation and even plastic surgery. The secret witness will not have to be physically present in court or will be able to testify unseen from behind protective enclosure.

1.13

a)

The information on how Poland implements common standards set by the World Customs Organization in relation to electronic reporting and the promotion of the security of the supply chain, as well as the international standards established under the revised WCO Kyoto Convention is still under elaboration. The said issues will be addressed in separate letter.

b)

The supervision over the entry and exit of people and cargo in Poland is effected both by the Border Guard (immigration) and Customs Services. The exchange of information and coordination between these agencies is being effected on an operational basis to ensure the effectiveness of actions undertaken by them.

c)

The issues of specific border protection, including those connected with practical protection of border sections between ports of entry is regulated by Ordinance of the Chief Commander of Border Guard of 5 May 2003, which is confidential.

The border is divided into so-called sections of responsibility, which in accordance with the said Ordinance remain under permanent control of specialized border protection teams. In practical terms the protection of border consists in patrolling of border zone and border areas. Specific actions

depend on geographical conditions of the border. Additionally Border Guard is testing GPS system to detect illegal crossing of border.

Poland has 27 specific bilateral agreements with neighboring countries concerning the administrative and technical cooperation in the protection of border against crime and terrorist acts. These agreements have been concluded both at governmental and ministerial levels. They contain arrangements concerning the principles of crossing of border, cooperation in control of persons, cargoes and means of transport, as well as mutual assistance in border matters, including cooperation of police forces.

d)

Yes, such manifest list is used by competent authorities.

e)

The minister competent for transportation, which discharges the obligations of "aviation authority" is responsible for ensuring the security in airports. The said obligations were delegated by the minister to the state undertaking "Polish Airports" ("Porty Lotnicze" PPL).

Periodic audits regarding the implementation of the said obligations is carried out by Supreme Chamber of Audit. As a result of the recent audit in airports, the minister competent for transportation has been obliged to strengthen the security measures in airports in light of both technical aspects of airport protection, as well as drafting of legislation and administrative regulations and supervision by the minister of PPL.

On 3 July 2002 the Parliament adopted new Aviation Law, which introduced more restrictive measures to ensure the security in airports. The said law addresses *inter alia* the issues of effective control of port facilities, information sharing and responsibility of agencies vested with tasks to ensure the security.

The authority primarily responsible for the ensuring the security of airports remains minister competent for transportation, which delegates his powers to the Office of Civil Aviation.

At the request of CTC Poland could provide the Committee with the translation of the text of the above mentioned law into English.

f)

The answers to all the specific questions posed by the CTC in this subparagraph are affirmative.

1.14

The principles governing granting of Polish citizenship are contained in the law of 15 February 1962 on Polish citizenship (as amended).

In accordance with Article 8 alien may obtain at his request the citizenship if he is resident in Poland on the basis of establishment permission at least five years. In especially reasoned cases alien may obtain citizenship even if he does not meet the foregoing requirements. Granting of citizenship may be connected, but not necessarily with the evidence

of loss or exemption from foreign citizenship. The requirement of five years residence applies likewise to a person with non-determined citizenship or without citizenship.

Furthermore in light of Article 10 of the law alien, who obtained establishment permission and who is married at least 3 years to a person possessing Polish citizenship shall acquire Polish citizenship, if within appropriate period of time produces appropriate declaration before competent authority and that authority issues decision to the effect of acceptance of the said declaration.

Granting of Polish citizenship is equivalent to granting of civic rights.

The issues related to modification of names is regulated in the law of 15 November 1956 on changing of names and surnames (as amended). The application for the modification of name shall be examined if it is justified by important circumstances. The latter include the situation when a person has a name with non-Polish origin.

The application shall be rejected without examination when there is justified suspicion that the intention of the applicant is to facilitate criminal activity or avoid of civil or criminal responsibility. The examination and issuance of decision on modification of names is the responsibility of local self-government institutions.

The institution issuing the decision is obliged to inform on the modification of name civil state offices competent for the place of making up of birth and marriage certificates of the applicant and place of making up of birth certificates of minor children, as well as appropriate taxation office and organ of Police, Armed Forces recruitment unit and population registers as well as Central Indictment Register.

1.15

Non applicable.

2. Assistance and Guidance

Poland welcomes the readiness of the Counter-Terrorism Committee to provide with further assistance and guidance in the implementation of the provisions of resolution 1373. Within day to day co-operation and exchange of information, Poland is benefiting from the assistance and guidance of states and regional organisations, especially of other Member States of the European Union and is providing on a bilateral basis the assistance to countries, which indicate their need for such assistance.

Furthermore, the Directory of Assistance of the CTC remains valuable source of relevant information for Polish authorities.